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**FISCAL IMPACT STATEMENT**

**LS 6582**

**BILL NUMBER:** HB 1296

**NOTE PREPARED:** Apr 5, 2013

**BILL AMENDED:** Apr 4, 2013

**SUBJECT:** Apportionment of Broadcaster Income.

**FIRST AUTHOR:** Rep. Karickhoff

**FIRST SPONSOR:** Sen. Mishler

**BILL STATUS:** CR Adopted 2<sup>nd</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) The bill provides that, for purposes of the statute specifying the amount of income attributable to Indiana for income tax purposes, sales of a broadcaster that arise from or relate to the broadcast or other distribution of film or radio programming by any means are in Indiana if the commercial domicile of the broadcaster's customer is in Indiana. It provides that a part of a broadcaster's sales to a customer that has a commercial domicile outside this state are in this state if that customer's state of domicile does not impose an income tax on the broadcaster based on those sales. It also specifies that the part of the sales to such a customer that are in this state is determined by apportionment using an audience factor.

**Effective Date:** January 1, 2014.

**Explanation of State Expenditures:** (Revised) *Department of State Revenue (DOR):* The bill requires that if a broadcaster's customer's state of domicile does not impose an income tax on the broadcaster, then the sales in that state are apportioned to Indiana. It specifies that the part of the sales to such a customer that are in Indiana is determined by apportionment using an audience factor. This provision could result in increasing the cost of audit for such tax returns. DOR should be able to implement the provisions in the bill within their existing level of resources.

**Explanation of State Revenues:** *Summary:* The bill will have an indeterminable impact on the corporate adjusted gross income (AGI) tax deposited in the state General Fund. Assuming that the taxpayers will make an adjustment to their estimated payments, any impact will begin in the second half of FY 2014.

**Background:** The apportionment formula is used to determine Indiana Adjusted Gross Income for

corporations whose income is derived from sources both within and outside Indiana. Currently, a single-factor apportionment formula is used to determine Indiana Adjusted Gross Income. The formula uses percentage of a corporation's nationwide sales (also called receipts) made to residents of Indiana to allocate business income to the state.

Under current practice, the state portion of receipts for television or radio station or network of stations for broadcast is calculated using the audience factor. The audience factor could be generally defined as the ratio that the taxpayer's in-state viewing (listening) audience bears to its total viewing (listening) audience. For film programming by a cable television system the audience factor uses the ratio that subscribers located in state bears to the total subscribers of such broadcaster.

The bill will change the method of calculating the in-state sales for the purpose of income apportionment for the broadcasters. The bill requires that the receipts from advertising and licensing be considered in Indiana if the commercial domicile of the broadcaster's customer is in Indiana. It also requires that if a broadcaster's customer's state of domicile does not impose an income tax on the broadcaster, then the sales in that state are apportioned to Indiana. The fiscal impact from the bill depends on the magnitude of the difference in the broadcaster's income apportionment to Indiana and whether it is larger or smaller than the income apportionment under current law.

The bill defines a 'broadcaster' as a television or radio station licensed by the Federal Communication Commission, a television or radio broadcast network, a cable program network, or a television distribution company. It defines a 'customer' as a person, corporation, partnership, limited liability company, or any other advertiser or licensee that has a direct connection or contractual relationship with the broadcaster under which revenue is derived by the broadcaster.

Corporate AGI tax is paid by all corporations doing business in Indiana. The tax is paid on modified federal taxable income apportioned to Indiana based on a percentage of sales volume attributable to Indiana. P.L 172-2011 phased down the tax rate from 8.5% in FY 2012 to 6.5% in FY 2016 and thereafter. The revenue collected from Corporate AGI tax is deposited in the state General Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** State Revenue Department.

**Local Agencies Affected:**

**Information Sources:** Multi State Tax Commission,  
[http://www.mtc.gov/uploadedFiles/Multistate\\_Tax\\_Commission/Uniformity/Uniformity\\_Projects/A\\_-\\_Z/SpecialRules-TVRadio.pdf](http://www.mtc.gov/uploadedFiles/Multistate_Tax_Commission/Uniformity/Uniformity_Projects/A_-_Z/SpecialRules-TVRadio.pdf)

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